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BOOK REVIEWS

The Birth of the Bill of Rights. By R. A. Rutland. Chapel Hill: The University of North Carolina Press. 1955. \$5.00. Pp. 243.

A Bill of Rights seems to be a formal establishment of a line beyond which government may not go in regulating conduct of its citizens. The form of the Bill is a declaration of certain privileges which pertain to the human being unaffected by his membership in a particular society or his allegiance to a particular government. Thus far, and no farther, the citizen says to the state.

The informative and scholarly book here reviewed touches upon the birth of the Bill of Rights idea in England in the common law, in Magna Carta, and in declarations and pronouncements by individuals of high and low estate. As far back as the eleventh century men of some boldness and at some risk were beginning to challenge the unlimited authority of the crown. But, of course, long before that, philosophers and religious teachers were incubating the germ. The conception of rendering unto Caesar *only* the things that were Caesar's implies some limit to autocratic authority. Centuries later the inchoate became choate.

The English beginnings of the Bill of Rights idea are presented by the author only to the extent necessary to establish the connection between the seed in the mother country and the flower in the colonies. A part of the mental and spiritual equipment of the English colonist was his congenital devotion to principles of personal liberty. He had lived in a land and under a system of laws which had set limits upon the inquisitorial power of government. He liked the system. He was determined it should flourish here.

So in each of the colonies there were men who spoke out with daring as colonial governments were created. Names of many of them are known only to the antiquarian. Preachers, teachers, farmers and store keepers, as well as lawyers, got in their licks. The pamphleteers had their heyday. There were, of course, men of eminence, too. Concessions which were included in the colonial charters, or extended by the colonial governments, reflected the zeal and, in some instances, employed the phraseology, of little men long since forgotten.

In the year 1776 there were in all of the colonies a substantial number of men of experience in delimiting the authority of government, of asserting boldly the rights of the citizens against the power of the colony. A fairly easy transition was involved in proceeding to the conception of the rights of the colony against the power of the crown. The Declara-

tion of Independence was born of that idea. In severing the bonds with the mother country, the equality of men and their right to life, liberty and the pursuit of happiness were proclaimed. And the preamble to the Constitution asserts the blessings of liberty as an object to be attained. The rights and liberties of the citizen are embedded in the two principal documents of our organic law.

Professor Rutland develops in imposing detail the concern which arose in all of the new-born states over the omission from the Constitution of a complete statement of rights reserved to the citizen. So widespread and profound was this concern that the first ten amendments were adopted in 1791. They constitute, of course, what is known as the American Bill of Rights. The original bill was extended and supplemented by the 13th, 14th, and 15th amendments adopted after the War Between the States in order to confer full rights of citizenship upon Negro citizens. The 14th contains language forbidding any state from abridging the privileges or immunities of citizens, which language was the basis of a memorable Supreme Court decision on May 17, 1954.

The example of the federal government was followed in the states. The rights of the citizens as against the power of the several states are a part of the law under which he lives.

No book which better portrays the growth of the Bill of Rights idea has come to the attention of this reviewer. From the quaint and majestic language of certain early English judges to the last amendment of a state constitution there runs the thread of connection and continuity. Many voices, many pens, many minds, many hearts, have made their contribution. Jefferson was nerved to his task and aided in his unrivalled expression by letters to the editor in obscure colonial newspapers.

If a moral may be drawn, it seems to be that a bill of rights is an evolutionary growth. Evolution is a continuing process. Amendment, revision, extension, are the characteristics of that process. In that process no citizen is so poorly placed that he may not have a hand. Determination that every other citizen's rights shall be as inviolate as our own and that new relationships shall be matched by new declarations are required of us all.

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